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The Place of the Official Lawyer in the United States Government

By O. R. McGUIRE, Special Assistant to the Attorney General and Attorney, General Accounting Office

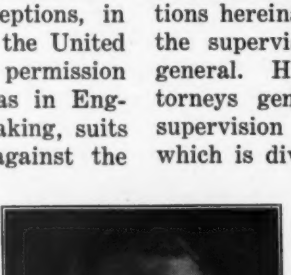
THERE are two chief law officers of the United States Government—the attorney general, who is the official head of the Department of Justice, and the comptroller general, who is the official head of the General Accounting Office.

The Department of Justice is a part of the Executive Department of the United States Government and the attorney general is a member of the President's Cabinet. He and his seven principal assistants and his solicitor general are appointed by the President, by and with the advice and consent of the Senate, and hold office at the pleasure of the President. The General Accounting Office is under the Legislative Department of the United States Government and the comptroller general is appointed in the same manner as the attorney general but his term of office is fifteen years and he cannot be removed during his term except by impeachment or joint vote of the Senate and House of Representatives. The comptroller general is not a member of the President's cabinet.

The attorney general is the advocate of the United States. The law makes it his duty to institute all suits for violations of the law—both civil and criminal—and it is his duty to defend the United States when any suit is brought against it by reason of contract or

otherwise. Unlike England, the law has provided, since 1855, that suits may be brought against the United States in the Court of Claims in Washington, or, with certain maximum exceptions, in any District Court of the United States. No special permission therefor is required, as in England, and, broadly speaking, suits may be maintained against the United States on any cause of action not arising in tort.

The continental United States and its territorial possessions of Porto Rico, Panama Canal Zone, Alaska, and Hawaii, are divided into districts with one or more United States District Judges who hold District Courts or courts of first instance. These districts are arranged in nine Circuit Courts of Appeal districts in each of which is an appellate court composed of three judges. These courts are statutory courts and at their head is the Supreme Court of the United States with both Constitutional and statutory jurisdiction.



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J. R. McCARL
Comptroller General of the United States

The Supreme Court exercises appellate review over all of the courts of the United States including the special courts and, to a limited extent, over the highest courts of the states and the Philippine Islands.

All of the litigation in these courts in which the United States are concerned, with limited exceptions hereinafter named, is under the supervision of the attorney general. His seven assistant attorneys general have immediate supervision over the litigation which is divided among them according to the character thereof. For instance, one assistant has immediate supervision of all suits against the United States on account of contracts, etc. Another has supervision of all litigation arising out of the customs revenue. A third has supervision of all criminal cases except prohibition cases, but so difficult is it to make Americans dry by legislation that all prohibition cases are assigned to one assistant attorney general who, at the present time, happens to be a woman.

There is in each of the United States District Court subdivisions one United States attorney who may have several assistants. These United States attorneys are also appointed by the President by and with the advice and consent of the Senate. Their assistants are

appointed by the attorney general on recommendation of the United States attorneys. The litigation—defense of suits, suits on behalf of the United States, and criminal prosecutions — in the District Courts is conducted by the United States attorneys subject to the immediate supervision of the particular assistant attorney general who has charge of the particular class of cases. They also conduct appeals in the Circuit Courts of Appeal, subject to the supervision of the Solicitor General. In event a certain case is of great importance to the United States, an attorney conversant with the class of cases is usually sent from the seat of government to assist the United States attorney in the District and Circuit Courts of Appeal.

The attorney general has also a corps of attorneys and special assistants appointed by him for conducting the routine work of the Department of Justice and for the defense of suits against the United States in the Court of Claims. While these men are not protected in their positions by the Civil Service they usually remain for years in the Department of Justice, and as the attorney general and his principal assistants, including the United States attorneys and their assistants, are generally changed with each change of Presidents, it is quite fortunate for the United States that the custom has grown up of not removing the men who are familiar with the details of work of the Department of Justice with each change of administration. However, higher positions in the Department of Justice are rarely filled by promotions from below with the result that some able attorneys serve only a few years and resign to enter private practice.

In former years, the attorneys general, themselves, conducted all cases on behalf of the United States in the Supreme Court, but beginning shortly after the Civil War, the volume of work became such that the attorney general could not do it. Congress then created the office of solicitor general to assist the attorney general; and it has come about in recent years that all of the cases in the Supreme Court are conducted by the solicitor general with the aid of two or three assistants and with the help of some of the assistant attorneys general. The burden of administrative work in the matter of patronage, including recommendations to the President for judgeships, has become such that with some conspicuous exceptions, attorneys general have not attempted to represent the United States in the courts.

There are limited classes of cases, in which the United States is concerned, over which the Department of Justice has no control. Generally speaking, these are cases where the law has provided a di-

rect review of administrative action, similar to the English procedure of review by certiorari of settlements made by district auditors as considered in Roberts v. Hopwood [1925] A. C. 578 — H. L. Such reviews obtain in the case of the Federal Trade Commission, Bureau of Internal Revenue and Interstate Commerce Commission. Reviews of decisions of the Federal Trade Commission and Bureau of Internal Revenue are by the appropriate Circuit Courts of Appeal. Reviews of the orders of the Interstate Commerce Commission are by two district judges and one judge of the Circuit Courts of Appeal, sitting as a court. The defenses in these cases are conducted by the attorneys of the particular service concerned, assisted in the case of the Interstate Commerce Commission by an assistant to the solicitor general. Also, conduct of appellate proceedings in cases arising in Porto Rico and the Philippine Islands is by the Bureau of Insular Affairs of the War Department.

The attorney general is also the official adviser of the President and heads of departments in all matters arising in the administration of their departments, except as to the disbursement of public money. There is attached to each of the Departments of Interior, Commerce, Labor, Treasury, and the Post Office Department, an official of the Department of Justice known as a solicitor. His duty is to advise the heads of these departments on any legal question which may be referred to them. The opinions of these solicitors are frequently referred, in practice, to the attorney general for his revisory opinion. In addition, the solicitor of the treasury has immediate supervision of the United States attorneys in the collection of claims certified by the accounting officers to be due the United States. The War and Navy Departments each have a judge advocate general who functions for his department in the same manner as the solicitors for the other departments.

The comptroller general performs duties somewhat similar to those of the comptroller and auditor general of England. His assistants are protected by the Civil Service against removal for political reasons and his duties are exclusively limited to the use of appropriated moneys for the conduct of the business of the United States. By the terms of the Constitution, no money may be drawn from the United States Treasury, save in consequence of an appropriation made by Congress. The appropriations are expended by the heads of the executive departments and establishments of the Government who, unlike the heads of the different services in England are not members of Congress. They belong to the Executive De-

partment of the Government. The actual disbursement of the public money is made by disbursing officers. Funds from the appropriations are advanced to the credit of disbursing officers on the books of the Treasurer of the United States, and they are required to render accounts, usually monthly, in support of all expenditures made by them and as an offset to the funds advanced to them.

The accounts of disbursing officers are rendered through their respective departments to the General Accounting Office and they are audited by the comptroller general to determine whether the disbursements were for the purposes specified in the appropriation statutes and subject to the many limitations contained in the law as to the disbursement of public funds. All proper items are passed to the credit of the disbursing officers and they are denied credit for all improper items. Disbursing officers must collect any improper payments or obtain legislative approval thereof. If they fail to do either, the item is collected from them or their sureties. The comptroller general, in order to aid in the collection, usually certifies a charge against the payee and sends a transcript of the account to the solicitor of the Treasury in order that suit may be instituted to recover the payment. . . .

All contracts on behalf of the United States are required to be filed in the General Accounting Office and the comptroller general is required to report to Congress all contracts and expenditures made in violation of law. He is also required to investigate all applications of public money and to recommend to Congress any legislation deemed necessary to secure greater economy and efficiency in the uses thereof.

No counterclaim can be interposed against the United States in a suit brought by it unless the counterclaim has been first presented to the General Accounting Office; but it is not necessary under existing law that claims be first presented to the General Accounting Office before suit may be instituted thereon. . . . The suit, when instituted, is one against the United States, though, necessarily, the soundness of the conclusions reached by the comptroller general is an issue.

In conclusion, it may be said that in the United States Government, the attorney general is the advocate in the courts and the adviser of the officers of the United States on all questions not involving disbursements of public money. The comptroller general is the adviser of the officers of the executive departments in all questions involving the disbursement of public money and the final arbiter, subject to legislative revision, of the uses of appropriations.

Marriage and Divorce in the Philippines*

By F. C. FISHER, *former Associate Justice of the Supreme Court of the Philippine Islands*

(Continued from April-May Case and Comment)

HAVING obtained her divorce, let us assume that the successful plaintiff returns to Manila; that after a time she marries another man here; and that her former husband takes another wife. Are these subsequent marriages valid? This question depends upon the validity of the divorce, first, from the standpoint of the law of Nevada, and, second, from the standpoint of the law of the Philippine Islands.

If the plaintiff wife, in our assumed case, had really intended to establish a residence in Nevada and to become a domiciled resident of that State, the divorce would unquestionably have been valid in Nevada because of the power which each State of the Union has to determine the civil status of all its domiciled inhabitants, and to grant divorces to them, in the cases authorized by its legislature, whether the defendant is an inhabitant of the State or not, and whether service of process is made upon him personally or only by publication. Pennoyer v. Neff, 95 U. S. 714, 24 L. ed. 565. Under such circumstances, that is, where the action is brought in the court of a State in which the plaintiff has a genuine domicile, but which is not the domicile of matrimony, and the divorce is granted upon service effected by the publication of summons, the Supreme Court has held that the decree may be accepted as valid by any State which sees fit to do so, but that no State can be required so to treat it under the full faith and credit clause of the Federal Constitution. Haddock v. Haddock, 201 U. S. 562, 50 L. ed. 867, 26 Sup. Ct. Rep. 525, 5 Ann. Cas. 1.

But, it is, of course, very rarely that a woman who goes to Nevada to get a divorce really intends to establish a genuine domicile in that State. She resides there just long enough to enable her to appear to have complied with the statutory conditions; and as soon as her divorce has been granted she packs up and leaves. Under such circumstances, while she has lived in Nevada the requisite six months, she has never really acquired a domicile in that State because of the lack of the essential element of intention to make it her permanent home—"the present in-

tention of permanent or indefinite residence," to use the language of the Supreme Court on the subject. Gilbert v. David, 235 U. S. 561, 59 L. ed. 360, 35 Sup. Ct. Rep. 164.

It is domicile therefore, which is absolutely essential to give jurisdiction to the court. In a case decided in 1901—the Bell Case (181 U. S. 175, 45 L. ed. 804, 21 Sup. Ct. Rep. 551)—the Supreme Court of the United States decided that a decree of divorce granted by the courts of a State in which the plaintiff resided, but in which neither plaintiff nor defendant was domiciled, was absolutely void and was not entitled to any protection under the full faith and credit clause of the Constitution. Two years later the Supreme Court of the United States decided the important Andrews Case (188 U. S. 14, 47 L. ed. 366, 23 Sup. Ct. Rep. 237). The decision in this case, which has never been modified or changed by the Court in any particular, involved the validity of a decree of divorce granted by the courts of South Dakota. Andrews, the plaintiff, went from Massachusetts to Dakota, where he took up his residence for the time prescribed by the laws of that State. After having lived there the necessary number of months he filed suit for divorce. His wife entered an appearance in the action and at first contested it, but subsequently withdrew her opposition. Andrews got his divorce and thereupon returned to Massachusetts. Here he remarried and subsequently died. A contest arose between the first Mrs. Andrews and the second wife as to their rights to the estate, each claiming to be Andrews' widow. The Massachusetts courts held the decree of divorce granted by the South Dakota court to be wholly void for the reason that Andrews, although a resident of South Dakota, had not acquired a domicile in that State. The case was thereupon carried to the Supreme Court of the United States. The Federal Supreme Court held that the evidence showed that when Andrews went to South Dakota—

> "His intention was to become a resident of that State for the purpose of getting a divorce and to that end to do all that was needful to make him such a resident."

The Supreme Court of the United States held that the law of South Dakota required domicile rather than mere residence. It said:

> "Without reference to the statute of South Dakota and in any event, domicile in that State was essential to give jurisdiction to the courts to render a decree of divorce which would have extraterritorial effect . . . the appearance of one or both of the parties to a divorce proceeding could not suffice to confer jurisdiction over the subject matter, where it was wanting because of the absence of domicile within the State."

The result of this ruling is that a divorce granted in one State may be called into question in the courts of another and its validity

determined upon the evidence as to domicile. "It is now too late," said the Supreme Court of the United States in a case decided in 1904 (German Sav. & L. Soc. v. Dormitzer, 192 U. S. 125, 48 L. ed. 373, 24 Sup. Ct. Rep. 221), "to deny the right collaterally to impeach a decree of divorce made in another State by proof that the court had no jurisdiction, even where the record purports to show jurisdiction and the appearance of the parties."

The Supreme Court of the Philippine Islands, in a case decided in 1918 (42 Philippine, 855), had this question up for consideration. The facts of the case are as follows: Mr. Jones, as we will call him, was a British subject, for many years a resident of a Philippine provincial town where he had married and made his home. Several children were born of the marriage. Mrs. Jones went to Europe and there formed an attachment for another man, the result being the birth of a child. Jones, upon hearing this, went to Paris, France, where his wife was at that time sojourning. Shortly after his arrival in that city he sued his wife for a divorce in the Paris courts, upon the ground of adultery. The complaint was served upon the defendant, but she made no appearance, the result being a declaration of default and judgment of absolute divorce in favor of the husband upon the evidence submitted by him. Jones thereupon returned to his home in the Philippines, the wife remaining in Europe. Soon after the divorce was granted, she married, in London, the father of her illegitimate child. Two other children were born of the second marriage and then the woman died. Some time after her death her father died, leaving a valuable estate in this country. A contest thereupon arose between Jones' children and the children born before and after the second marriage in London. On behalf of the Jones children it was argued that the other claimants were illegitimate and, therefore, not entitled to inherit under the Philippine law. This contention was based upon the proposition that the divorce granted in Paris was wholly void, and that, consequently, the second marriage was equally invalid. The Philippine Supreme Court sustained this objection, saying that the facts showed that Jones, when he went to Paris in 1904, did so for the sole purpose of getting a divorce without any intention of establishing a domicile in that city, and that the evidence was equally conclusive that his wife had no domicile there, but that the presence of both spouses in that city was due solely to their mutual desire to procure a divorce. The Court then said:

"It is established by the great weight of authority that the courts of a coun-

try in which neither of the spouses is domiciled and to which one or both of them may resort merely for the purpose of obtaining a divorce has no jurisdiction to determine their matrimonial status; and a divorce granted by such a court is not entitled to recognition elsewhere. See note to Benton's Succession, 59 L.R.A. 143. The voluntary appearance of the defendant before such a tribunal does not invest the court with jurisdiction. Andrews v. Andrews, 188 U. S. 14, 47 L. ed. 366, 23 Sup. Ct. Rep. 237.

"It follows that, to give a court jurisdiction on the ground of the plaintiff's residence in the State or country of the judicial forum, his residence must be bona fide. If a spouse leaves the family domicile and goes to another State for the sole purpose of obtaining a divorce, and with no intention of remaining, his residence there is not sufficient to confer jurisdiction on the courts of that State. This is especially true where the cause of divorce is one not recognized by the laws of the State of his own domicile. 14 Cyc. 817, 818.

"As has been well said by the Supreme Court of the United States, marriage is an institution in the maintenance of which in its purity the public is deeply interested, for it is the foundation of the family and of society, without which there could be neither civilization nor progress. Maynard v. Hill, 125 U. S. 210, 31 L. ed. 658, 8 Sup. Ct. Rep. 723. Until the adoption of Act No. 2710 by the Philippine Legislature (March 11, 1917), it has been the law of these Islands that marriage, validly contracted, could not be dissolved absolutely except by the death of one of the parties; and such was the law in this jurisdiction at the time when the divorce in question was procured. The Act to which we have referred permits an absolute divorce to be granted where the wife has been guilty of adultery or the husband of concubinage. The enactment of this statute undoubtedly reflects a change in the policy of our laws upon the subject of divorce, the exact effect and bearing of which need not be here discussed. But inasmuch as the tenets of the Catholic Church absolutely deny the validity of marriages where one of the parties is divorced, it is evident that the recognition of a divorce obtained under the conditions revealed in this case would be as repugnant to the moral sensibilities of our people as it is contrary to the well-established rules of law.

"As the divorce granted by the French court must be ignored, it results that the marriage of [Doctor Blank to Mrs. Jones] celebrated in London in 1905, could not legalize their relations; and the circumstance that they afterwards passed for husband and wife in Switzerland until her death is wholly without legal significance. The claims of the . . . children to participate in the estate of [Mrs. Jones' father] must therefore be rejected. The right to inherit is limited to legitimate, legitimated, and acknowledged natural children. The children of adulterous relations are wholly excluded. The words 'descendants,' as used in article 941 of the Civil Code cannot be interpreted to include illegitimates born of adulterous relations."

In the light of this decision, based as it is upon similar pronouncements of the Supreme Court of the United States on the subject, the conclusion appears to be inevitable that such divorces as those we are now considering are wholly void in this jurisdiction, as they are in the United States; that subsequent marriages by persons relying upon such decrees are bigamous; and that children born of such bigamous and void marriages are illegitimate.

It is true that a great many courts have held that when one of the parties to a marriage obtains a divorce which is void because of lack of domicile, and the other party remarries, the latter is estopped from thereafter disputing the validity of the divorce. This estoppel, however, does not affect the children of the first marriage, who may contest the validity of the second marriage

in so far as it affects their property rights (9 R. C. L. 521) nor does it affect the rights of the State to enforce the criminal law against plural marriages.

The practical working of the existing Philippine divorce law is to cause a great many men and women to drift into illicit relations. Quite frequently such offenders are sent to prison. Those who possess sufficient means to get a pseudo-divorce from the Reno courts and thereafter go through the form of a second marriage, have so far enjoyed exemption from criminal proceedings. It is by no means certain, however, that this immunity will continue. The Attorney-General of the Philippine Islands, in an opinion handed down in February, 1926, instructed the Provincial Fiscal of Oriental Negros to file a complaint for bigamy against a resident of the Philippines who had obtained a decree of divorce in Reno, Nevada, in 1924, and had contracted a second marriage upon his return to the Philippines, his first wife being still alive. The Attorney-General held that the evidence in the case showed that while the accused had remained in Nevada for six months, he left that State immediately after the divorce was granted and never intended permanently to reside there and that this being so, the Nevada divorce was absolutely void for lack of jurisdiction. Answering the inquiry of the Provincial Fiscal as to whether the fact that the accused honestly believed that the Nevada divorce was valid at the time he contracted the second marriage would constitute a defense to the prosecution for bigamy, the Attorney-General said that according to the weight of authority in the United States—

> "the fact that one charged with bigamy believed in good faith that he had been lawfully divorced from his first wife constitutes no defense. The theory seems to be that the statutes are so drafted as to cause persons about to marry to take no chance on the question. The statute requires them to know the fact. In this view care and diligence of the defendant to ascertain whether the former marriage has in fact been dissolved by divorce and the reasonableness of his mistaken belief could not aid a defense based on such a belief . . . This is a mistake in law, as distinguished from a mistake in fact, and clearly can be no defense. This is so even though the defendant gets expert, though mistaken, advice of counsel that the divorce is legal and then proceeds to act upon it. . . . This is in accordance with the general principle that ignorance of the law is no defense."

This opinion by the Attorney-General is fully supported by the statutory definition of the crime of bigamy, as given in article 471 of the Philippine Penal Code, as follows:

> "Any person who shall contract a second or subsequent marriage before the former marriage has been legally dissolved shall suffer the penalty of prision mayor."

The term "prision mayor" means imprisonment for not less than six years and one day and not more than twelve years.

No doubt the people who contract these unions following void divorces believe, in good faith, that the second marriage is valid; and the vast majority of them may never have occasion to give the matter a second's thought. Occasionally, however, where property rights are involved, a conflict between heirs will bring the validity of the Reno divorce into question and children born of such marriages may learn to their sorrow that they have neither name nor inheritance.

Such are the effects of the present law. That many evils are directly traceable to it is, I believe, unquestionable. People marry, and most of them live happily ever afterwards—or at least they manage to endure each other with becoming resignation. But as long as human nature continues to be what it is, a very considerable number of them will fall out, and separations will result. In those cases in which the separation is the result of such serious misconduct on the part of one of the spouses as to justify the other in refusing to endure it, would it not be wise to permit our courts to grant an absolute divorce? Is it not better to make provision for the legal dissolution, on reasonable conditions, of those marriages which have become a mockery, and which, as to the innocent party, constitute a continuous and unmerited punishment?

The First American Law School

THE statement in the article on "The Early American Bar" on page 41 of the April-May CASE AND COMMENT that "the first law school established in America was opened in 1782 at Litchfield, Connecticut," is said to be erroneous by Dean John Garland Pollard, of the Marshall-Wythe School of Government and Citizenship of the College of William and Mary in Virginia, who writes: "In 1779, through the influence of Thomas Jefferson, then a Member of the Board of Visitors of the College of William and Mary in Virginia, a school of law was established there and George Wythe, signer of the Declaration of Independence, was elected Professor. (See Jefferson's Autobiography, Jefferson's Writings, Vol. I, p. 74).

"Chief Justice Marshall was a student in this law school in 1780. It continued in operation until the Civil War and many of Virginia's leading lawyers were educated there."

We may add to Dean Pollard's statement that of Dr. Tyler, President Emeritus of the College of William and Mary, which appears in his sketch of George Wythe, published in "Great American Lawyers," where he says:

"Mr. Wythe's reputation for learning was doubtless chiefly attributable to the talent for teaching, which was early displayed by him, and which after some years led to his election, by the board of visitors in William and Mary College, to fill the new chair of law and police established in the institution by Mr. Jefferson at the reorganization of the college curriculum in 1779. In this professorship Mr. Wythe remained for twelve years, and he has the honor of having been the first university law professor in the United States, and the second in the English-speaking world—Sir William Blackstone, who filled the Vinerian chair of law at Oxford in 1758, being the first."

But Judge Simeon E. Baldwin of Connecticut, in his sketch of James Gould in "Great American Lawyers" observes: "Tapping Reeve, a graduate of Princeton . . . became a practicing lawyer in Litchfield, Connecticut, in 1772. He had the kind of temperament which is not inaptly styled magnetic. Law students sought his help and so filled his office that in 1782 he found himself conducting what was really, in the fullest sense a Law School, and giving set lectures to established classes. It was the first that was set up in America; nor indeed did any other then exist in any English speaking country, for the Inns of Court had long ceased to be seats of serious instruction and the 'schools' of Oxford and Cambridge were little but a form."

Perhaps the common belief in the seniority of the Litchfield Law School is due to the years of Mr. Reeve's tutorship which preceded the formal opening of his school in 1782.

To Whom It May Concern

WILL the gentleman who recently sent our New York Office, at 150 Nassau St., a sum of money in currency without any identification other than the direction to apply it on an old account, kindly step forward and receive the credit and appreciation due him?

From internal indications the money would seem to have been sent on an old, old Profit & Loss account. Such extraordinary examples of honest and conscientious regard for an old debt are of infrequent enough occurrence to warrant confidential recognition and appreciation. Will the gentleman make himself known confidentially to us so we can shake hands with him and thank him properly?

The Lawyers Co-Operative Publishing Co.

Justice is the rightful sovereign of the world.—*Pindar.*

Amusements — *police power — application to dances.* That the police power of a municipality does not extend to the suppression of public dances, merely because an admission fee is charged, is held in Jonesville v. Boyd, 161 La. 278, 108 So. 481, annotated in 48 A.L.R. 142, on public regulation of dancing, dance halls, dancing schools, etc.

Appeal — *tentative admission of evidence — absence of error.* That error in tentative admission of evidence is not reversible if no attempt was made to secure a final ruling upon the question is held in the South Carolina case of Armstrong v. Atlantic Coast Line R. Co. 133 S. E. 482, annotated in 48 A.L.R. 482, on necessity and sufficiency of final ruling on evidence to present question on appeal.

Banks — *joint account — death of one depositor — effect.* Where a person opens a savings account in a bank to the joint credit of himself and another, payable to either, and balance at death of either payable to survivor, the authority to remain in full force until receipt by the bank from the depositor of written notice of its revocation, and the record shows that the depositor intended to transfer to the person to whom he made the account jointly payable a present joint interest equal to his own in the account, and the pass book has been left in the possession of the bank for withdrawals by either party on the joint account, a joint interest is created in the right of the depositor in the deposit, and the person to whom the deposit is made payable jointly with the depositor, upon the death of the depositor without his having revoked the authority to draw, is held to be entitled to the balance of the account in Cleveland Trust Co. v. Scobie, 114 Ohio St. 241, 151 N. E. 373, annotated in 48 A.L.R. 182.

Banks — *power to furnish official information.* A national bank is held in the North Carolina case of People's Nat. Bank v. Southern States Finance Co. 133 S. E. 415, to have no power to engage in the business of furnishing to depositors or to others, gratuitously or for compensation direct or indirect, information as to the solvency or condition or reputation, financially or otherwise, of persons, firms, or corporations. Annotation on the liability of a bank for erroneous credit information furnished by it or its officer or employee, is appended to this case in 48 A.L.R. 519.

Bills and notes — *accommodation indorser — liability.* The Negotiable Instruments Law makes an accommodation maker primarily liable to a holder for value. In consequence, it is held in Vernon Center State Bank v. Mangelsen, 166 Minn. 472, 208 N. W. 186, that he cannot avail himself of the defenses, such as extension of time of payment without his consent, which are available only to a surety.

Annotation on discharge of accommodation maker or surety by extension of time or release of collateral, under Negotiable Instruments Law, accompanies this case in 48 A.L.R. 710.

Bills and notes — *gift — purchaser for value.* That a person taking a promissory note as a gift is not a purchaser for value (N. J. Negotiable Instruments Act, §§ 28, 52; N. Y. Negotiable Instruments Act, §§ 54, 91), is held in the New Jersey case of Cockrell v. McKenna, 134 Atl. 687, which is accompanied by annotation in 48 A.L.R. 234, on one taking bill or note as a gift or in consideration of love and affection as a holder for value or in due course protected against defenses between prior parties.

Breach of peace — *personal violence — necessity.* To constitute a "breach of the peace," it is not necessary that actual personal violence be employed. Abusive and insulting language by one towards another, accompanied by threats of violence against such other, which puts him in fear, is held to constitute the offense defined by Rev. Stat. § 21–950, in State v. Hebert, 121 Kan. 329, 246 Pac. 507, annotated in 48 A.L.R. 81, on words as criminal offense other than libel or slander.

Brokers — *authority to execute contract of sale.* That a real estate broker cannot, unless expressly or impliedly authorized to do so, execute a contract of sale on behalf of his principal, is held in Payne v. Jennings, 144 Va. 126, 131 S. E. 209, annotated in 48 A.L.R. 628.

Carriers — *ticket office where passengers board train — excess fare.* A flag station where passengers are permitted to board trains, which is better than one eighth of a mile from a hotel where an office for the sale of tickets is maintained, and which is across a river from the station on a side street, is held in Chesapeake & O. R. Co. v. Hill, 215 Ky. 222, 284 S. W. 1047, to be within the rule that, where a passenger takes a train where no ticket office is maintained, no excess fare will be collected.

Annotation on excess fare for passenger not purchasing ticket follows this case in 48 A.L.R. 327.

Charities — *gift for education.* A gift to promote free public-school education among the inhabitants of a district is held in the Rhode Island case of South Kingstown v. Wakefield Trust Co. 134 Atl. 815, to be for a public charitable use, highly favored in law, and which when possible will be supported by the courts.

Annotation on gift for public school as a valid charitable gift is appended to this case in 48 A.L.R. 1122.

Commerce — *interstate — forbidding advertising of cigarettes.* That a state cannot prohibit the publication of advertisements of cigarettes or tobacco so far as it concerns a newspaper circulating in interstate commerce carrying the advertisement of a nonresident advertiser, where the sale of such article is not prohibited in the state, but merely regulated, is held in the Utah case of State v. Salt Lake Tribune Pub. Co. 249 Pac. 474, which is annotated in 48 A.L.R. 553, on statute or ordinance in relation to advertising as interference with interstate commerce.

Constitutional law — *police power — wholesale produce business.* That a wholesale produce business is charged with a public interest so as to come within the regulatory police

power of the legislature, is held in State ex rel. Hickey v. Levitan, 198 Wis. 646, 210 N. W. 111, annotated in 48 A.L.R. 434, on validity of regulations affecting wholesale produce dealers.

Corporations — *appropriation of profits to preferred dividends.* Where profits applicable to payment of dividends on noncumulative preferred stock of a corporation are made in a particular year without declaration of the dividend, and they are not devoted to some corporate purpose, the directors, it is held in Collins v. Portland Electric Power Co. 12 F. (2d) 671, may in a subsequent year appropriate them to the passed dividend.

Annotation on the rights of holders of preferred stock in respect of dividends is appended to this case in 48 A.L.R. 73.

Damages — *breach of insurance contract.* The measure of damages for the wrongful breach of a contract of insurance issued by a fraternal insurance company to one of its members is held in American Ins. Union v. Woodard, 118 Okla. 248, 247 Pac. 398, annotated in 48 A.L.R. 102, to be the present value of the policy, if the member at the time of the breach of the contract is no longer an insurable risk.

Damages — *telegraphs — sufficiency of notice of damages.* That a telegram couched in such language as to indicate that it is of importance is sufficient to support a recovery for actual damages for failure promptly to deliver it, even under the "in contemplation of the parties" rule of damages, is held in the Tennessee case of Western U. Teleg. Co. v. Green, 281 S. W. 778, annotated in 48 A.L.R. 301, on applicability of "contemplation of parties" rule in tort action.

Damages — *vendee's loss of bargain — good faith of vendor.* A vendee of real estate is held in Crenshaw v. Williams, 191 Ky. 559, 231 S. W. 45, not to be entitled to damages for loss of his bargain upon inability of the vendor to make good title, where the vendor acted in good faith and was guilty of no positive or active fraud in the transaction.

Annotation on the measure of recovery by vendee under executory contract for purchase of real property where vendor is unable or refuses to convey, accompanies this case in 48 A.L.R. 5.

Escrow — *fraudulent possession — effect.* That one obtaining a deed from an escrow holder by fraudulent means acquires no title thereby, as there is no delivery, is held in the Florida case of Houston v. Forman, 109 So. 297, annotated in 48 A.L.R. 401, on effect of unauthorized delivery or fraudulent procurement of escrow on title or interest in property.

Evidence —*of carefulness of physician.* In an action to recover damages from a physician for injuries caused by negligently administering an X-ray, it is held in Green v. Shaw, 136 S. C. 56, 134 S. E. 226, that evidence as to his general reputation for care and expertness is not admissible.

The admissibility in an action for malpractice, of evidence as to reputation of physician or surgeon for skill and care, is considered in the annotation in 48 A.L.R. 243.

Evidence — *will — effect of duplicate execution.* That a will was executed in duplicate does not alter the rule that a will left in the custody of testator, which cannot be found after his death, is presumed to have been intentionally destroyed, is held in Re Bates, 286 Pa. 583, 134 Atl. 513, annotated in 48 A.L.R. 294, on destruction or cancelation, actual or presumed, of one copy of will executed in duplicate, as revocation of other copy.

Gift — *of legacy as chose in action.* Even though the interest of a legatee is a legal chose in action, it is held in Chase Nat. Bank v. Sayles, 11 F. (2d) 948, annotated in 48 A.L.R. 207, on

gift of interest in estate after decedent's death, that he may make a valid and irrevocable gift of his right or interest which equity will uphold.

Husband and wife — *desertion as crime.* That wilful desertion of a wife without good cause may be made a criminal offense, although it is not accompanied by failure to support, is held in Murphy v. State, 171 Ark. 620, 286 S. W. 871, which is accompanied in 48 A.L.R. 1189 by annotation on power to make abandonment, desertion or nonsupport of wife or family a criminal offense.

Infants — *parent's right as against opposing claimant.* The legal right of a fit and suitable parent to the custody of his child, it is held in the Utah case of Sherry v. Doyle, 249 Pac. 250, should not be denied in favor of an opposing claimant who has no legal right to its custody, but relies upon the performance of a contract to care for it when it was frail and nervous.

Annotation as to the condition of health of child as consideration in awarding custody, accompanies this case in 48 A.L.R. 131.

Injunction — *highways — issuance of bonds — unjust burden.* That injunction lies against the issuance of bonds for the construction of a link in a through highway, at the suit of a railroad company which will, because of the sparse settlement of the district, be compelled to pay practically the whole tax, where the highway will parallel the railroad and be, to some extent, in competition with it, is held in Yale Highway Dist. v. Oregon Short Line R. Co. 8 F. (2d) 676, annotated in 48 A.L.R. 494, on excessiveness or unfairness of assessment for highway improvement on property of railroad company.

Injunction — *mortgagee's right to stay waste.* A mortgagee is held not entitled to maintain a suit in chancery to stay waste, in the New Jersey case of Eisenberg v. Javas, 134 Atl. 769, annotated in 48 A.L.R. 1155.

Insurance — *effect of levy of execution on property.* That a mere temporary change of possession of personal property, due to the levy upon it of an execution, which is promptly satisfied and the property returned to the owner before a fire loss occurs to it, will not defeat recovery on a policy insuring the property against fire, which provides that the entire policy shall be void if any change takes place in interest, title, or possession, whether by legal process, voluntary act, or otherwise, is held in the Virginia case of Western Assur. Co. v. Stone, 134 S. E. 710, annotated in 48 A.L.R. 1009, on levy of process, or seizure and possession of officer thereunder, as change of interest, title or possession, avoiding insurance policy.

Insurance — *motorcycle as motor-driven vehicle.* A motorcycle is held in Laporte v. North American Acci. Ins. Co. 161 La. 933, 109 So. 767, not to be within the operation of a provision in a policy insuring against death by the wrecking or disablement of a motor-driven car in which insured is riding, or by being accidentally thrown from such car.

This case is accompanied in 48 A.L.R. 1086 by annotation on motorcycle as within contract, statute or ordinance, in relation to motor cars, motor-driven cars, etc.

Insurance — *sole ownership — tenancy by entireties.* That one of the tenants by entireties of a parcel of real estate is not the sole and unconditional owner within the meaning of a condition requiring such ownership in a policy of insurance upon the property, is held in the Arkansas case of Western Assur. Co. v. White, 286 S. W. 804, annotated in 48 A.L.R. 349, on tenant by entirety as sole and unconditional owner within insurance policy.

Joint adventures — *definition.* A joint adventure is held in Keiswetter v. Rubenstein, 235 Mich. 36, 209 N. W. 154, to be an association of two or

more persons to carry out a single business enterprise for profit.

The question what amounts to a joint adventure is considered in the annotation which follows this case in 48 A.L.R. 1049.

Jury — *as constituent of court.* Under statutory provisions that no person indicted for an offense shall be convicted thereof unless on confession or by verdict of a jury, and that issues of fact joined upon an indictment shall be tried by a jury, the jury is held to be a constituent part of the tribunal, in the Massachusetts case of Com. v. Rowe, 153 N. E. 537, so that a court sitting without a jury has no jurisdiction to try the case.

This case is accompanied in 48 A.L.R. 762 by annotation on right to waive trial by jury in criminal cases; and effect of waiver upon jurisdiction of court to proceed without a jury.

Libel — *charging delinquent debt — liability.* A member of a collection bureau is held to be liable in J. Hartman & Co. v. Hyman, 287 Pa. 78, 134 Atl. 486, annotated in 48 A.L.R. 567, in sending to the secretary a false statement that a trader is delinquent in paying a bill to him, knowing that the information will be immediately circulated among other members of the bureau and deprive the alleged debtor of all credit, where the member has neither reasonable nor probable cause to believe that the communication is true, and takes no precautions to ascertain whether or not it is true.

Life tenants — *purchase of bonds at discount — rights of.* A life tenant is held not to be entitled to the profit made by the purchase of bonds for investment at a discount in Re Gartenlaub, 198 Cal. 204, 244 Pac. 348, annotated in 48 A.L.R. 677.

Master and servant — *question for jury — negligence in failing to light stairway.* In an action by a house servant to recover damages from her employer for injuries caused by falling down an unlighted cellar stairway, it is held in the Missouri case of Eaton v. Wallace, 287 S. W. 614, that the jury must determine whether or not the employer exercised ordinary care in providing a reasonably safe place in which to perform the work required of plaintiff.

The duty and liability of an employer to a domestic servant is treated in the annotation which accompanies this case in 48 A.L.R. 1291.

Mines — *construction of "paying quantities."* The term "paying quantities," as used in an oil and gas lease for a given term, and as much longer as oil or gas is produced in paying quantities, is held in the Oklahoma case of Gypsy Oil Co. v. Marsh, 248 Pac. 329, to mean paying quantities to the lessee. If the well pays a profit, even small, over operating expenses, it produces in paying quantities, though it may never repay its cost, and the operation as a whole may prove unprofitable. Ordinarily the phrase is to be construed with reference to the operator, and by his judgment, when exercised in good faith.

The meaning of "paying quantities" in an oil and gas lease is the subject of the annotation appended to this case in 48 A.L.R. 876.

Negligence — *injury by sluicing — effect of other operations.* A contractor engaged in making a fill by sluicing operations is held in Small v. Seattle, 139 Wash. 559, 247 Pac. 925, not to be relieved from liability for injury done by water finding its way into the basement of a building, by the fact that other similar operations were in progress in the neighborhood, where no injury was done until his operations were begun.

Annotation on the liability for damages incident to the moving of soil by hydraulic methods or sluicing accompanies this case in 48 A.L.R. 125.

Negligence — *unsafe machine — liability of manufacturer.* A manufacturer of a tractor who gives the purchaser ample instructions as to the method of procedure if the machine

becomes mired is held in Foster v. Ford Motor Co. 139 Wash. 341, 246 Pac. 945, not to be liable to the purchaser's employee, who is injured by failing to follow the directions, and employing a dangerous method of procedure to release the machine when it becomes mired, because it did not give the employee notice of the danger of such procedure.

Annotation on liability for personal injuries by tractor accompanies this case in 48 A.L.R. 934.

New trial — *statutory limitation — effect.* That so long as a court has jurisdiction of a case a new trial may be granted regardless of the statute prescribing when motions for that purpose are to be made, is held in the Texas case of Nevitt v. Wilson, 285 S. W. 1079, annotated in 48 A.L.R. 355, on right of court, under its inherent power to grant a new trial, to disregard statute limiting time for filing or determining motion for new trial.

Notice — *to bank — wrongful use of deposits.* The cashier of the defendant was also the treasurer of the plaintiff, with authority to draw checks in the name of the plaintiff. The accounts of the cashier and his brother had become heavily overdrawn. By means of checks drawn against the plaintiff, the cashier transferred to the bank funds from the plaintiff's account in the bank in settlement of these overdrafts. It is held in Knobley Mountain Orchard Co. v. People's Bank, 99 W. Va. 438, 129 S. E. 474, that the bank may not close its eyes to the fact that these payments were made with funds which did not belong to its debtors, and which it had no right to receive in such settlement, and it is liable to the plaintiff in a suit therefor.

Annotation on the liability of bank in respect to funds of third persons misappropriated by bank officer or employee and used to cover his own overdraft or defalcation accompanies this case in 48 A.L.R. 459.

Recent British Cases

The English and American common law—"distinct like the billows, but one like the sea."

Bills and notes — *Right of indorser giving his promissory note to sue maker before payment thereof.* That an indorser of a dishonored promissory note who has, in discharge of his liability to the holder, given to such holder his own promissory note in respect of the amount due, which has been accepted in full satisfaction and discharge of the liability of all parties under the original note, may recover such amount from the maker of the original note as money paid, although his own note is still current and unpaid, was held in Wilson v. Cox [1925] Vict. L. R. 586, 14 B. R. C. 238.

The question of right of indorser to recover from maker before payment of new note given to holder by indorser is covered in the annotation appended to this case in 14 B. R. C. 243.

Contempt — *Publication of charge to grand jury.* The publication by a newspaper of a charge to a grand jury, delivered in a place to which the public and reporters were admitted, was held in The King v. Evening News [1925] 2 K. B. 158, 14 B. R. C. 169, not punishable as a contempt of court as calculated to prejudice the fair trial of the person whose acts were therein commented upon; being held within the immunity accorded to a report of a proceeding in a court of justice.

The annotation appended to this case in 14 B. R. C. 183 covers the question of publication relating to grand jury or its proceedings as contempt of court.

Insurance — *statement that automobile is paid for where outstanding note exists, as avoiding.* The Supreme Court of Canada in Western Assur. Co. v. Caplan [1924] (Can.) S. C. R. 227, 14 B. R. C. 275, decided that an applicant for automobile insurance is not guilty of omitting to disclose a circumstance material to the risk in stating that the car was paid for, when he had given a note which was still current for part of the price.

The annotation appended to this case in 14 B. R. C. 284 covers the question whether a statement that car was paid for avoids automobile, fire or theft policies, where note was given in part payment.

Landlord and tenant — *reception of "paying guests" as breach of covenant.* That the reception of "paying guests" by a lessee, of her friends, or persons recommended by them, who were secured by private notification and never by public announcement, constitutes a breach of covenants in a lease against using the premises for the purpose of any trade or business and against using the premises otherwise than as a private dwelling house or professional residence only, was held in Thorn v. Madden [1925] 1 Ch. 847, 14 B. R. C. 286.

The report of this case in 14 B. R. C. 291 is accompanied by annotation on keeping boarders, lodgers, or paying guests as a breach of covenant to use leased premises as private dwelling, family residence, etc.

Statute of frauds — *Memorandum in writing — Sufficiency of ratification of unauthorized alterations by*

agent after principal had signed. That the requirements of the Statute of Frauds that no action shall be brought on any contract or sale of lands unless evidenced by a memorandum in writing signed by the party to be charged or his agent are satisfied by a writing in which the agent of one of the parties made unauthorized alterations after it had been signed by his principal, where such alterations were subsequently ratified by the principal was decided by the English Court of Appeals in Koenigsblatt v. Sweet [1923] 2 Ch. 314, 14 B. R. C. 119.

Appended to this case in 14 B. R. C. 136 is an annotation dealing with ratification of unauthorized alterations in contract of sale as writing signed by parties to be charged within the Statute of Frauds.

A.L.R. Annotations in Volume 48 Include These Subjects:

Exhausting thought and hiving wisdom with each studious year—*Byron.*

Alleys — Liability of municipality for injury to traveler in alley. 48 A.L.R. 434.

Assumpsit — Recovery of tax paid under unconstitutional statute or ordinance. 48 A.L.R. 1381.

Attorneys — Reinstatement of disbarred or suspended attorney. 48 A.L.R. 1236.

Bankruptcy — Future estate or interest in property as asset in bankruptcy. 48 A.L.R. 784.

Bankruptcy — Who may enforce guaranty. 48 A.L.R. 1041.

Banks — Duty and liability of bank under agreement to remit money or establish credit. 48 A.L.R. 1217.

Banks — Liability of bailee where subject of bailment is stolen. 48 A.L.R. 378.

Bills and notes — Drawee's mere writing of his name on bill as an acceptance thereof. 48 A.L.R. 760.

Bills and notes — Rights of transferee after maturity of accommodation paper. 48 A.L.R. 1280.

Bills and notes — Taking of demand note in renewal as releasing surety or indorser. 48 A.L.R. 1222.

Brokers — Rights inter se of customers whose securities have been repledged by broker. 48 A.L.R. 803.

Carriers — Liability of carrier for injury to passenger due to construction of floor of car or vessel on different levels. 48 A.L.R. 1424.

Charities — Gift for lectures as a valid charitable gift. 48 A.L.R. 1142.

Commerce — Refusal or failure of consignee to accept goods as terminating interstate shipment. 48 A.L.R. 956.

Contempt — Conduct pending receivership as contempt of court. 48 A.L.R. 241.

Contracts — Liability of contractee in principal contract who discontinues same for damages to or loss of profits by subcontractor. 48 A.L.R. 458.

Contracts — Validity and construction, as regards buildings not on right of way, of contract relieving railroad from liability for destruction of buildings. 48 A.L.R. 1003.

Contracts — What constitutes part performance sufficient to take agreement in consideration of marriage out of operation of Statute of Frauds. 48 A.L.R. 1356.

Coroners — When holding of inquest or autopsy justified. 48 A.L.R. 1209.

Corporations — Right of corporation to prefer creditors. 48 A.L.R. 479.

Corporations — Right to fix wages or salaries of working stockholders above those current for similar services. 48 A.L.R. 508.

Corporations — Validity and construction of contract or option on purchase of corporate stock by employee for resale thereof to original seller on termination of employment. 48 A.L.R. 625.

Creditors' bill — Judgment for fine or penalty as supporting creditors' bill or other suit to avoid as fraudulent conveyance or transfer before its entry. 48 A.L.R. 605.

Take a holiday from hard work. Buy R. C. L.

Criminal law — Acquittal or conviction under Federal statute as bar to prosecution under state or territorial statute based on the same act or transaction and vice versa. 48 A.L.R. 1106.

Damages — Excessive or inadequate damages for personal injuries resulting in death. (For period beginning 1916.) 48 A.L.R. 817.

Damages — Stipulation in land contract for payment of specified sum by vendor in case of default as provision for liquidated damages or penalty. 48 A.L.R. 899.

Estoppel — Effect of promise by one whose name is forged to take care of paper. 48 A.L.R. 1368.

Estoppel — Right to recover back cash bail or securities taken without authority. 48 A.L.R. 1430.

Evidence — Admissibility in favor of accused in criminal case of extrajudicial confession by stranger. 48 A.L.R. 348.

Fixtures — Water heater as fixture. 48 A.L.R. 1146.

Guaranty — Right of obligee in guaranty or surety bond to fill blank as to amount. 48 A.L.R. 741.

Highways — Liability of municipality for injury resulting from slippery condition of walk concurring with defect therein. 48 A.L.R. 1154.

Husband and wife — Right of one spouse to maintain action against other for personal injury. 48 A.L.R. 293.

Incompetent persons — Constitutionality of statute imposing liability upon estate or relatives of insane person for his support in asylum. 48 A.L.R. 733.

Insurance — Breach of policy by mortgagor as affecting mortgagee under a loss payable clause which does not provide for that event. 48 A.L.R. 124.

Insurance — Divorce decree as affecting a change of ownership or interest within policy of insurance. 48 A.L.R. 1232.

Interpleader — Right of judgment debtor to interplead. 48 A.L.R. 966.

Judges — Stock holding as disqualification of judge. 48 A.L.R. 617.

Judgment — Correction of entry or amendment of judgment nunc pro tunc as affecting intervening liens and property rights. 48 A.L.R. 1182.

Larceny — Criterion of value for purpose of fixing degree of larceny of automobile license plates. 48 A.L.R. 1167.

Levy and seizure — Money or other property taken from prisoner as subject of attachment, garnishment, or seizure under execution. 48 A.L.R. 583.

Limitation of actions — Purchase subject to mortgage as removing or interrupting defense of Statute of Limitations as against mortgage. 48 A.L.R. 1320.

Lottery — Scheme for advertising or stimulating legitimate business as a lottery. 48 A.L.R. 1115.

Mines — Right of owner of title to or interest in minerals under one tract to use of surface in connection with mining other tract. 48 A.L.R. 1406.

Nuisances — Pesthouse or contagious disease hospital as nuisance. 48 A.L.R. 518.

Obstructing justice — What constitutes offense of obstructing or resisting officer. 48 A.L.R. 746.

Release — Avoidance of release of claims for personal injuries on ground of mistake or fraud relative to the extent or nature of the injuries. 48 A.L.R. 1462.

Schools — Inmates of charitable institutions as residents entitled to school privileges. 48 A.L.R. 1098.

Usury — Advance in price on credit sale as compared with cash sale, as usury. 48 A.L.R. 1442.

Vendor and purchaser — Validity of contract negotiated by agent acting for both parties. 48 A.L.R. 917.

Waters — Precipitation of rain water or snow from a building upon adjoining premises. 48 A.L.R. 1248.

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O, then a laugh will cut the matter short:
The case breaks down, defendant leaves the court.—*Horace.*

A Half Truth. Magistrate (to woman witness, who is dressed very youthfully, but looks quite fifty): "Are you married?"

"Twice, sir."

"And how old are you?"

"Twenty-eight, sir."

"Also, twice?"

—Pasquino, Turin.

The Main One. "Yes," said the lawyer, "you go through bankruptcy and it will relieve you of all your financial burdens."

"That so?" said the man who was in trouble. "And what becomes of her?"

"Her? What do you mean?"

"My wife, of course."

—Boston Transcript.

No Meal Ticket. An attorney who advertised for a chauffeur, when questioning a negro applicant, said: "How about you, George; are you married?"

"Naw, sir, boss; naw, sir; Ah makes my own livin'."

—Home Store News.

Cases in Point. "Some things are better left unsaid."

"Righto! Every breach of promise suit demonstrates that."

—Boston Transcript.

In an English Court. Magistrate —Give me the gist of his remarks.

Witness.—They were gist terrible, sir.

Got Started, Couldn't Stop. Believed to have been worrying over his approaching trial on a liquor charge, John, 60-year-old tailor, shot and killed himself, then set fire to his home. —Seattle paper.

Irrelevant. Wife—So your client was acquitted of murder. On what ground?

Lawyer.—Insanity. We proved that his father had spent five years in an insane asylum.

"But he hadn't had he?"

"Yes. He was a doctor there, but we saw no necessity of bringing out that fact.

The Habitue. Sergeant (at police station)—What! You back again?

Prisoner—Yes, sir. Any letters?

—Boston Transcript.

Deadly Weapons. "He threatened me with fire-arms, your worship."

"What kind of fire-arms?"

"Poker and tongs."

The Vicious Circle. Prisoner—I admit, your honor, that I was exceeding the speed limit, but I was afraid of being late at court.

Judge—And what was your business in court?

Prisoner—I had to answer the charge of exceeding the speed limit.